IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 1062 of 2006
Date of decision : 25.1.2007.

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Parties Name

Nek Singh

..... Petitioner

vs.

Nand and others

.....Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. H.S. Dhandi, Advocate
for the petitioner.

Sh. S.K. Sharma, Advocate
for respondent No.1.

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S.N. Aggarwal, J.

This order will dispose of CR 1062 of 2006 and CR No.1061 of 2006 between the same parties. The facts are taken from CR No.1062 of 2006.

Nand-respondent had filed a civil suit for declaration that he was owner in possession of the land measuring 4 Kanals 11 Marlas comprised in Khasra No. 1/1/4-11 situated in village Ghorenab, Tehsil Moonak and sought an injunction against the petitioner from interfering in his peaceful possession. Respondent No.1 claimed his ownership and possession on the basis of entries in the jamabandis and other revenue record. The petitioner appeared and filed the written statement and pleaded that earlier the suit land was owned by the Central Government. It was purchased by the petitioner in open auction on 9.11.1966 for a sum of Rs.360/- and on the basis of said

sale deed mutation No. 4630 of 21.9.1972 was entered and sanctioned in favour of the petitioner. The petitioner also set up a counter claim for declaration that entries made in the jamabandi/other revenue record were illegal and were not binding on the petitioner. He also asserted his own possession over the suit land and also filed an application for interim stay.

The learned trial Court held that respondent No.1 was in possession of the suit property and accordingly, both the applications were decided against the petitioner by the learned trial court vide order dated 26.11.2005. The petitioner filed two appeals against the said orders. Both the appeals were dismissed by the learned Lower Appellate Court vide order dated 11.2.2006..

Hence, the present petitions.

The submission of the learned counsel for the petitioner was that originally Central Government was the owner. The suit land was put to auction. It was purchased by the petitioner in open auction on 9.11.1966 for which the sale certificate was issued in favour of the petitioner. On the basis of the said sale deed mutation was sanctioned in favour of the petitioner on 21.9.1972. The petitioner was coming in possession of the suit property but respondent No.1 has got entered his name in the revenue record illegally. It was also submitted that demarcation report had taken place in which the petitioner was held to be in possession of the suit property. Hence, it was prayed that impugned order passed by the Courts below be set aside.

On the other hand, the submission of the learned counsel for respondent No.1 was that he was coming in possession of the suit

property as an owner. His ownership and possession is also reflected in the jamabandis. Even the latest khasra girdawari from 2001-2002 upto 2005-06 also speak about the possession of respondent No.1 on the suit land measuring 4 Kanal 11 Marlas. Hence, it was prayed that the revision petitions be dismissed.

These submissions have been considered. The Court has to consider the possession at this stage. As per the revenue record, the possession is with respondent No.1. Even the latest khasra girdawari speaks the possession of respondent No.1 over the suit land. Although respondent No.1 has not been able to produce any document on the file to prove his ownership except entries in the jamabandis. In these circumstances, there is no ground for this Court to interfere with the orders passed by the Courts below.

However, on the facts of the present case, the learned trial Court is directed to decide the civil suit expeditiously, preferably within a period of one year.

It was submitted by the learned counsel for the petitioner that respondent No.1 himself is causing delay in producing the evidence. In these circumstances, respondent No.1 is directed to produce his evidence by availing two opportunities. If he fails to do so, his evidence shall be treated as closed.

Disposed of.

(S.N.Aggarwal)
Judge

25.1.2007.
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